

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

**BETTY EVANS,**

**Plaintiff,**

**v.**

**Civil Action No. 2:10-cv-00945  
Judge JOHNSTON**

**TRANS UNION, LLC, and  
CHARLESTON AREA MEDICAL  
CENTER, INC., d/b/a Healthcare  
Financial Services,**

**Defendants.**

**REPLY TO PLAINTIFF’S RESPONSE IN OPPOSITION  
TO CHARLESTON AREA MEDICAL CENTER, INC.’S  
MOTION TO DISMISS AMENDED COMPLAINT**

In reply to the Plaintiff’s Response in Opposition to Defendant Charleston Area Medical Center, Inc.’s Motion to Dismiss Amended Complaint (“Plaintiff’s Response”) and in further support of its Motion to Dismiss Amended Complaint, Charleston Area Medical Center, Inc. (“CAMC”), by counsel, submits the following:

CAMC references and incorporates its Reply to Plaintiff’s Response to Motion to Dismiss filed in this Civil Action on August 18, 2010. In further reply, CAMC restates that the Plaintiff’s negligence claims are based on allegations involving negligence in the context of credit reporting. The Plaintiff alleges that CAMC acted negligently by “negligently processing the Plaintiff’s insurance payment internally.” (*Plaintiff’s Response*). However, the damages that the Plaintiff allegedly sustained resulted from allegedly false information contained in the credit report maintained by the defendant, Trans Union, LLC. The Plaintiff asserts that this allegedly false information was provided by CAMC to the defendant, Trans Union, LLC. Therefore, the Plaintiff’s attempt to couch her claim as a negligence claim against CAMC for negligently processing the Plaintiff’s insurance payment “internally” should be rejected as an effort to

bypass the preemption established in 15 U.S.C. § 1681h(e).

**WHEREFORE**, Defendant, CAMC, requests that the Plaintiff's negligence claims be dismissed with prejudice, CAMC be awarded its costs, fees, and be awarded such and further other relief the Court deems appropriate.

Respectfully submitted,

**CHARLESTON AREA MEDICAL CENTER,  
INC.**

By Counsel

/s/ Robert L. Bandy  
Robert L. Bandy, Esquire (WVSB #7419)  
KAY CASTO & CHANEY PLLC  
P O Box 2031  
Charleston, WV 26327-2031  
(304)345-8900

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

**BETTY EVANS,**

**Plaintiff,**

**v.**

**Civil Action No. 2:10-cv-00945  
Judge JOHNSTON**

**TRANS UNION, LLC, and  
CHARLESTON AREA MEDICAL  
CENTER, INC., d/b/a Healthcare  
Financial Services,**

**Defendants.**

**CERTIFICATE OF SERVICE**

I, Robert L. Bandy, do hereby certify that a true copy of the foregoing **REPLY TO PLAINTIFF'S RESPONSE IN OPPOSITION TO CHARLESTON AREA MEDICAL CENTER, INC.'S MOTION TO DISMISS AMENDED COMPLAINT** with the Clerk of the Court using the CM/ECF system on this 9<sup>th</sup> day of November, 2010, which will send notification of such filing to the following:

Kevin Baker, Esq.  
Baker & Brown, PLLC  
707 Virginia Street East  
Chase Tower, Suite 230  
Charleston, WV 25301  
*Counsel for Plaintiff*

Robert E. Ryan, Esq.  
Setliff Turner & Holland  
517 Ninth Street, 2<sup>nd</sup> Floor  
Huntington, WV 25701  
*Counsel for Trans Union, LLC*

/s/ Robert L. Bandy  
Robert L. Bandy (WVSB#7419)